

U.S. Postal Service

## CERTIFIED MAIL RECEIPT

(Domestic Mail Only: No Insurance Coverage Provided)

IS SECTION ON DELIVERY

(Please Print Clearly)

B. Date of Delivery

K. Steels

3-1-02

5/23/071

*[Signature]*

☐ Agent  
☐ Addressee  
☐ Yes  
☐ No

Interior



In Reply Refer to:

3800

(U-010)

UTU-078294

☐ Express Mail  
☐ Return Receipt for Merchandise  
☐ C.O.D.  
☐ Yes

2417 1119

February 28, 2002

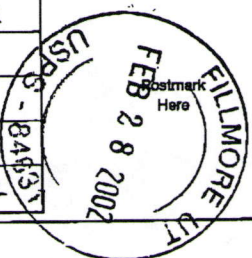
Postage \$ .57

Certified Fee 2.10

Return Receipt Fee (Endorsement Required) 1.50

Restricted Delivery Fee (Endorsement Required)

Total Postage &amp; Fees \$ 4.17



Sent To

ROBERT &amp; TERRY STEELE

1055 NORTH 4<sup>TH</sup> EAST

NEPHI UT 84648

PS Form 3800, May 2000

See Reverse for Instructions

PS Form 3811, July 1999

Domestic Return Receipt

102595-99-M-1789

RETURN RECEIPT REQUESTED

## DECISION

ROBERT & TERRY STEELE : 43 CFR § 3809  
 1055 NORTH 4<sup>TH</sup> EAST : Surface Management  
 NEPHI UT 84648 : Noncompliance Order

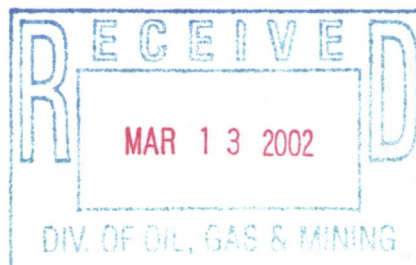
Dear Mssrs. Steele:

On, January 8, 2002 a surface compliance inspection was conducted on Notice UTU-079294, located in Section 24, T. 13 S., R. 2 W., SLM, Hi Cal #1. The workers on-site indicated they had been mining for the last ten days. They stated 46,000 tons were mined, crushed and stockpiled. They were in the process of removing the equipment and indicated the stockpiled material would be trucked to the power plant as needed through the year.

During this inspection, the site and improved access road were mapped using a Geographic Positioning System (GPS). The mine site disturbance was mapped as being 5.2 acres. The access road, which has been improved from a two-track route to a graded and graveled road, was mapped as being approximately 3,300 feet long and at least 10 feet wide. The access road disturbance is approximately 0.75 acres. Of the 0.75 acres, 0.2 acres of the road disturbance occurs on BLM administered lands.

The notice on file with this office describes the operation as including 300 feet of new access road, no improvements to existing road, the mine site consisting of four acres of disturbance and the total disturbance of 4.25 acres. The improvement of the road was not described in your existing notice.

You have exceeded five acres of disturbance; therefore, a plan of operations must be submitted in accordance with 43 CFR 3809.11. In



FILE COPY



2

addition, a plan of operations must be approved and a financial guarantee accepted prior to commencing the proposed work on the ground.

Your operation on Notice UTU-078294 is in noncompliance. You have failed to comply with the requirements of the following subparts of the Surface Management Regulations:

1. **43 CFR § 3809.11(a)** A plan of operations must be submitted, and BLM's approval obtained prior to beginning operations greater than casual use.
2. **43 CFR § 3809.300(c)** Operations on any additional acreage come under the regulation of this subpart and in this situation, requires the approval of a plan of operations before additional surface disturbance occurs.
3. **43 CFR § 3809.401** When required to do so, you must file your plan of operations with the local BLM field office. The plan of operations must contain certain information and describe your operation in sufficient detail that the BLM can determine it will prevent undue and unnecessary degradation.
4. **43 CFR § 3809.415** You must prevent unnecessary and undue degradation by complying with § 3809.420, the terms and conditions of your notice or approved plan, other Federal and state laws and by assuring your operations are reasonably incident to mining, prospecting and processing.
5. **43 CFR § 3809.500** When you conduct operations under a notice or plan of operations, you must provide BLM or the state with a financial guarantee.
6. **43 CFR § 3809.605** Beginning any operations other than casual use is prohibited without receiving approval for a plan of operations. Conducting any operations outside the scope of your notice or approved plan of operations is prohibited. Beginning operations prior to providing an adequate financial guarantee is prohibited. Failing to comply with the required performance standards of § 3809.420 is prohibited.

To correct the above listed items of noncompliance, you must complete the following:

1. Submit a complete and technically adequate plan of operations that contains all required information stated in § 3809.401, (Operator Information, Description of Operations, Reclamation Plan, Monitoring Plan and Interim Management Plan and Reclamation Cost Estimate) within sixty (60) days of your receipt of this **Noncompliance order**.

3

2. Submit an acceptable financial guarantee (43 CFR 3809.555) within thirty (30) days of the approval of a plan of operations.
3. Make all required notifications or obtain all required Federal and state permits (e.g., File a large mine plan with Utah Division of Oil, Gas & Mining; Meet the requirements of Mine Safety and Health Administration, etc.)

Failure to comply with the Noncompliance Order may result in appropriate criminal penalties in accordance with 43 CFR 3809.700.

If you do not agree and are adversely affected by this decision, in accordance with 43 CFR 3809.804, you may have the Utah BLM State Director review this decision. If you request a State Director review, the request must be received in the Utah BLM State Office, P.O. Box 45155, Salt Lake City, Utah 84145-0155, no later than 30 calendar days after you receive this decision. A copy of the request must also be sent to this office. The request must be in accordance with the provisions provided in 43 CFR 3809.805. If a State Director review is requested, this decision will remain in effect while the State Director review is pending, unless a stay is granted by the State Director. Standards for obtaining a stay are given below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

If the Utah State Director does not make a decision on whether to accept your request for review of this decision within 21 days of receipt of the request, you should consider the request declined and you may appeal this decision to the Interior Board of Land Appeals (IBLA). You then have 30 days in which to file your notice of appeal with the IBLA (see procedures below).

If you wish to bypass the State Director review, this decision may be appealed directly to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office within 30 days from receipt of this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations 43 CFR 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of this notice of appeal and petition for a stay must also be submitted to each party named in the decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 CFR 4.413) at the same time the original documents are filed

with this office. If you request a stay, you have the burden of proof<sup>4</sup> to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

1. The relative harm to the parties if the stay is granted or denied,
2. The likelihood of the appellant's success on the merits,
3. The likelihood of immediate and irreparable harm if the stay is not granted, and
4. Whether the public interest favors granting the stay.

If you have any questions regarding this noncompliance order please call Jerry Mansfield at (435) 743-3125.



---

Rex Rowley  
Field Office Manager

Enclosure:  
Form 1842-1

cc: UT-923  
D. Wayne Hedberg, UDOGM (S/023/834)

JMansfield:nh